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COMMITTEE ON THE ELIMINATION OF RACIAL DISCRIMINATION

Forty-sixth session

SUMMARY RECORD OF THE SECOND PART (PUBLIC)* OF THE 1097th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 16 March 1995, at 3 p.m.

Chairman: Mr. GARVALOV

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The public meeting was called to order at 5.55 p.m.

PREVENTION OF RACIAL DISCRIMINATION, INCLUDING EARLY WARNING AND URGENT PROCEDURES (agenda item 3) (continued)

Draft recommendation on Papua New Guinea

1. The CHAIRMAN invited the Committee to consider the following draft recommendation, prepared by Mr. Wolfrum:

"Draft recommendation on Papua New Guinea

- The Committee reiterates its concluding observations, adopted at its 1010th meeting on 19 August 1993 and at its 1060th meeting on 12 August 1994, in which it expressed concern at reports of serious human rights violations in Bougainville, including summary executions and population transfers, as well as possible large-scale mining operations in Bougainville without due regard to the rights of the ethnically distinct population or the adverse effects of environmental degradation.

- It notes with appreciation that a process to re-establish peace on the Papua New Guinea island Bougainville has been initiated and that the "Mirigini Charter" has been signed on 25 November 1994. The Committee, however, notes with concern that most leaders of the Bougainville Revolutionary Army and the organization known as the Bougainville Interim Government did not participate in the Bougainville Peace Conference, held in October 1994, which provided the basis for discussions leading to the signing of the "Mirigini Charter".

- The Committee urges that in the future all parties participate in the negotiations towards a total cessation of armed conflict and the restoration of peace, which is crucial to the full implementation of human rights without distinction as to race, colour, or national or ethnic origin.

- The Committee renews its offer to the Government of Papua New Guinea to provide assistance in efforts to strengthen national mechanisms for the promotion and protection of human rights and in particular for the protection against racial discrimination. It calls upon the Government of Papua New Guinea to renew its dialogue with the Committee, in accordance with article 9 of the Convention and to expedite its periodic reports which were due on 26 February 1985, 1987, 1989, 1991, 1993 and 1995, respectively, and which should contain specific information on the situation prevailing on the island of Bougainville. Such information should reach the Committee in time so as to be considered at its forty-seventh session in August 1995."

2. Mr. CHIGOVERA suggested that the second line of paragraph 2 should be amended to read "... The Mirigini Charter was signed ...". He also wondered why the first paragraph referred to "the adverse effects of environmental degradation", which surely had nothing to do with the Convention.

3. Mr. WOLFRUM explained that the indigenous population of Bougainville was dependent on certain forms of agriculture and was thus disproportionately affected by environmental degradation.

4. The draft recommendation on Papua New Guinea, as amended, was adopted.

Draft decision on Rwanda

5. The CHAIRMAN invited the Committee to consider the following draft decision on Rwanda, prepared by Mr. Banton:

"Draft decision on Rwanda

The Committee expresses its dismay at the tragic circumstances prevailing in Rwanda and endorses the conclusions of the Special Rapporteur on Rwanda of the Commission on Human Rights (E/CN.4/1995/71). It underlines his statement in paragraph 50 that very rapid action is required if the international community is not to be the powerless spectator of a second war and further massacres, and his recommendation 4 (b) about the convening of an international conference. The Committee also underlines the conclusions of the Representative of the Secretary-General (E/CN.4/1995/50/Add.4) concerning the importance of international action to secure the return of displaced persons."

6. Mr. ABOUL-NASR asked whether the draft decision would appear only in the report or whether other action would be taken as well.

7. The CHAIRMAN said that the draft decision would appear in the Committee's report and be transmitted to the State party in the form of a note verbale or letter.

8. Speaking as a member of the Committee, he recalled that there had been some question of including a reference in the draft decision to the United Nations High Commissioner for Human Rights.

9. Mr. BANTON suggested the addition of a new paragraph, reading: "The Committee decided that this text should be transmitted to the United Nations High Commissioner for Human Rights".

10. The draft decision on Rwanda, as amended, was adopted.

Draft reply to Israel

11. The CHAIRMAN invited the Committee to consider the following text, prepared by Mr. van Boven:

"Draft reply to Israel

In a note verbale presented by the Permanent Representative of Israel to the Secretary-General of the United Nations, dated 6 October 1994, surprise is expressed concerning the Committee's regret that Israel 'has not submitted the urgent report the Committee requested in its decision 1 (44) of 7 March 1994'. In this connection Israel drew

attention to the materials it submitted on 30 June 1994 and to supplementary information supplied on 8 August 1994, and requested that these materials be published as Israel's report to CERD.

In reply the Committee wishes to state the following. First, the paragraph quoted by Israel from the Committee's concluding observations reads in full: 'while the Committee acknowledges the information it has received from Israel through the Secretary-General, the Committee regrets that Israel has not submitted the urgent report the Committee requested in its decision 1 (44) of 7 March 1994' (A/49/18, para. 85). Second, on 31 March 1994 the Permanent Mission of Israel informed the Secretary-General that it had established an inquiry committee with respect to the massacre at the Tomb of the Patriarchs in Hebron and that a copy of the report of the inquiry committee would be made available to the Committee as a matter of courtesy and without prejudice to the competence of the Committee in the matter. Third, on the basis of this qualification by Israel itself of the materials supplied, the Committee had good reason to assume that these materials did not constitute the urgent report the Committee had requested. The Committee's assumption was confirmed by the fact that Israel preferred to be absent when the question was discussed by the Committee. Fourth, now that Israel has indicated that it wishes to see that the materials supplied to the Committee be treated as the urgent report requested by the Committee, the Committee is ready to treat these materials on the same footing as urgent reports requested from other States parties."

12. Mr. van BOVEN said that he could foresee a difficulty in the text. At its preceding session, the Committee had adopted concluding observations on Israel in which it requested the Government to expedite its seventh and eighth periodic reports and to include in them a response to the Committee's observations (A/49/18, para. 91). Since, in the draft decision, the Committee agreed to accept the information provided by Israel as an urgent report, there was a danger that the Government of Israel might not consider it necessary to expedite its periodic reports.

13. The CHAIRMAN suggested that a sentence should be added to the text to make that point clear.

14. Mr. van BOVEN suggested the following wording: "Fifth, recalling the final paragraph of the concluding observations adopted by the Committee on 18 August 1994 (A/49/18, para. 91), the Government of Israel is again requested to expedite its seventh and eighth periodic reports, due on 2 February 1992 and 1994 respectively, and to include in them a further response to the observations in question. They should be submitted in time for consideration at the Committee's forty-seventh session."

15. Mr. ABOUL-NASR asked what the letter was intended to achieve. It seemed to him that it merely summarized the exchanges between Israel and the Committee. The Committee had eventually agreed to accept the information supplied by Israel as an urgent report, but had it discussed the information in detail? He could not see how Israel's failure to submit its periodic reports entered into the matter at all. He felt that the letter could be greatly simplified.

16. Mr. van BOVEN said that he had wished to highlight Israel's inconsistent attitude: at first, the Government had stated that it was sending the information as a courtesy, without recognizing the Committee's competence to consider it, but it had then asked the Committee to treat the information as an urgent report after all. Perhaps that meant that the Government had belatedly acknowledged the Committee's competence, but he had thought it tactful not to say so in as many words. The Committee had considered the information in some detail. He had requested the prompt submission of Israel's periodic reports in the hope that they would provide further relevant information.

17. Mr. WOLFRUM expressed his support for the draft text as a way of maintaining the dialogue between Israel and the Committee.

18. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee wished to adopt the text, as amended. It would be sent in the form of a note verbale from the United Nations Secretary-General to the Permanent Representative of Israel.

19. The draft reply to Israel, as amended, was adopted.

SUBMISSION OF REPORTS BY STATES PARTIES UNDER ARTICLE 9, PARAGRAPH 1, OF THE CONVENTION (agenda item 8) (continued)

Report requested urgently from Burundi

20. The CHAIRMAN invited the Committee to consider the following request, prepared by Mr. Banton:

"Report requested urgently from Burundi

Concerned by reports of continuing ethnic tension in Burundi, the Committee, in accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, requests the Government of Burundi to expedite its seventh, eighth and ninth periodic reports due on 26 November 1990, 1992 and 1994 respectively, in order to facilitate consideration at the Committee's forty-seventh session of the implementation of the International Convention in Burundi, including specific information on the measures taken by the Government to reorganize public institutions to ensure balanced participation by all population groups in the conduct of public affairs.

The Committee was alarmed by reports of the atmosphere of impunity prevailing in Burundi and supported the appeal for an increased international presence made by the United Nations Commissioner for Human Rights on 16 February 1995 to prevent another tragedy like Rwanda's."

21. Mrs. SADIQ ALI suggested that the end of the last sentence of paragraph 2 should be amended to read: "... to prevent further deterioration of the situation".

22. Mr. ABOUL-NASR suggested that the penultimate line should be amended to read: "The United Nations High Commissioner for Human Rights".

23. The draft request, as amended, was adopted.

DRAFT GENERAL RECOMMENDATION ON ARTICLE 5 OF THE CONVENTION (continued)

24. Mr. WOLFRUM explained that he had incorporated changes in the draft general recommendations to take account of suggestions made by members of the Committee.

25. The second sentence of paragraph 2, reworded to reflect suggestions by Mr. de Gouttes and Mr. Aboul-Nasr, would read: "Article 5 of the Convention, apart from the guarantee in the exercise of human rights to be free from racial discrimination, does not of itself create civil, political, economic, social or cultural rights, but presumes the existence of these rights".

26. In the first sentence of paragraph 4, the word "categories" had been replaced by the words "groups of persons" in response to criticism by members. In the second sentence, the word "universal" had been deleted and the sentence now read: "Some are related to all living in a given State, such as the right to equal treatment before tribunals; some are the rights of citizens, such as the rights to participate in elections, to vote and to stand for election".

27. Paragraph 5 had been split in two. Its first sentence became the new paragraph 5 and the remainder became the new paragraph 6. Furthermore, the words "as may well be the case with certain economic and social rights" had been deleted and the words "the exercise of rights or" had been inserted in the last sentence of the new paragraph 6 after the word "influence".

28. Confusion often persisted among States on the content and interpretation of the Convention and he hoped that his recommendation would provide guidance in that regard.

29. Mr. ABOUL-NASR said that a number of points still needed to be checked. For example, paragraph 4 contradicted article 1, paragraph 2, of the Convention. In view of the late hour, however, he suggested that consideration of the draft general recommendation should be deferred until a later date.

30. The CHAIRMAN said that he did not object to deferring consideration, but he and the Bureau must know where they stood because, when they met at the end of July, they would have only about five working days prior to the joint meeting with the Sub-Commission on Prevention of Discrimination and Protection of Minorities.

31. If he heard no objection, he would take it that the Committee wished to defer consideration of the draft general recommendation on article 5 until the August 1995 session.

32. It was so decided.

ORGANIZATIONAL AND OTHER MATTERS (agenda item 2) (continued)

Draft statement concerning the participation of the Committee on the Elimination of Racial Discrimination in the celebration of the fiftieth anniversary of the United Nations (submitted by Mr. Banton)

33. Mr. BANTON said that he had encountered some difficulty drafting the statement because the Committee had not given him any guidance on what it wanted the statement to contain.

34. Mr. ABOUL-NASR said he agreed that it was not clear what the purpose of the draft statement was. In his view, the Committee should simply send a telegram congratulating the United Nations on its fiftieth anniversary.

35. Mr. SHERIFIS said that the Chairman might be entrusted with inquiring how the other treaty monitoring bodies intended to proceed and then producing a text for the occasion that built on Mr. Banton's draft, drew attention to the Committee's contribution and reported on its role in creating a new world humanitarian order based on equal opportunity and equal rights regardless of race.

36. The CHAIRMAN said that the Bureau should work on a draft. No attempt was being made to rush a text through the Committee. The Secretary of the Committee informed him that the other treaty monitoring bodies had not taken any action or planned anything yet. There was still time for the initiative to be finalized at the Committee's August session. He therefore thought that the Committee might defer consideration of the question until then.

37. If he heard no objection, he would take it that the Committee decided to defer consideration of the draft statement concerning its participation in the celebration of the fiftieth anniversary of the United Nations until its August 1995 session.

38. It was so decided.

Joint meeting between the Committee and the Sub-Commission on Prevention of Discrimination and Protection of Minorities

39. The CHAIRMAN asked the members of the Committee for their ideas on the joint meeting with the Sub-Commission.

40. Mr. SHAHI said that he had discussed the question with Mr. van Boven and Mr. Banton and they had decided that Mr. van Boven's rough draft should serve as the basis for that meeting, incorporating the proposals made by Mr. Banton.

41. Mr. van BOVEN said that it might be useful to involve the Chairman in further preparations. The problem was that the Sub-Commission did not have a Chairman or a Bureau between sessions. The Committee's Chairman might therefore write to the members of the Sub-Commission to inform them that the Committee planned to make a specific proposal at the beginning of its August 1995 session.

42. Mr. BANTON said that agreement had been reached on a title: "Contribution of the Committee on the Elimination of Racial Discrimination to the Prevention of Discrimination".

43. Mr. WOLFRUM said that the August session of the Committee would be very busy. A joint meeting with the Sub-Commission should be held only if it could be carefully prepared in advance, but it was difficult to see how that could be done if the Sub-Commission had neither a Chairman or a Bureau. He was against wasting an entire meeting on a useless exchange of views.

44. Mr. de GOUTTES proposed that there should be a discussion on early warning and urgent procedures because the Committee must convince the Sub-Commission of their usefulness.

45. Mr. SHERIFIS said that, as the Sub-Commission had no Chairman and the Committee was about to adjourn until August, there was little that could be done until then. The issue would be taken up on the afternoon of the first day of the August session and, if the Sub-Commission had a Bureau and a Chairman by then, the two Chairmen could hold an exchange of views and identify items for discussion. The joint meeting should not be cancelled. As a last resort, there could simply be an exchange of views between the two bureaux.

46. Mr. YUTZIS said he agreed that the meeting should be held, but it must be carefully prepared and it must serve a purpose.

47. The CHAIRMAN recalled that the General Assembly had instructed the Committee and the Sub-Commission to convene a joint meeting to discuss ways to implement the Third Decade to Combat Racism and Racial Discrimination.

48. Mr. WOLFRUM said that he took issue with a point made by Mr. de Gouttes: he was not willing to discuss the Committee's mandate or even the urgent procedures. Although the Sub-Commission and the Commission on Human Rights had misgivings in that regard, the Committee had its own mandate and was not accountable to either of those bodies.

49. The CHAIRMAN said he agreed with Mr. Wolfrum that the Committee's mandate should not be on the agenda. The Committee was asking the Sub-Commission to pool its resources with a view to furthering the objectives of the Third Decade. The two bodies should agree on a one-page paper defining their future cooperation.

50. Mr. AHMADU said that he was also in favour of holding the meeting. It was very important to have an exchange of views with the Sub-Commission. On some days, the two bodies might even be considering the report of the same country. Careful preparation was needed and that could take more than one afternoon. Some members of the Sub-Commission might even say that, with the demise of apartheid, the Committee had lost its raison d'être. He agreed with Mr. Wolfrum that the Committee must reject any discussion of its mandate. The assistance of the secretariat would be needed in preparing for the meeting and, in his view, Mr. van Boven, Mr. Banton and the Chairman should all be present. In order to keep the discussion focused, the meeting would need to have a document before it.

51. Mrs. SADIQ ALI said that it should not be difficult for Mr. van Boven, Mr. Banton and the Chairman to prepare a paper, but the problem was deciding on the subject and coordinating the effort. It would be helpful if the secretariat could allocate funds for their travel.

52. The CHAIRMAN said that, if the results of the joint meeting were action-oriented, that would enhance the prestige of the Committee.

53. Mr. BANTON said that he was against requesting assistance for travel expenses. The Committee should not set aside any time for preparations because it would already have a heavy workload at the August session. It should proceed on the assumption that it knew a lot more about racial discrimination than the Sub-Commission and that it had a special status by virtue of its mandate, its Convention and the endorsement by the General Assembly of the initiatives that it had taken. It must prepare a careful paper setting out its position so that any member of the Sub-Commission who made off-the-cuff comments about the Committee would be faced with a statement that would not be so easy to dismiss.

54. Mr. de GOUTTES said that he agreed with Mr. Banton. He had no substantive disagreement with Mr. Wolfrum: the Committee should not discuss its mandate with the Sub-Commission. As to the method, it might be better to consider questions that the Sub-Commission had about urgent procedures, so as to dispel any misunderstanding.

55. The CHAIRMAN said that he looked forward to collaborating with Mr. van Boven and Mr. Banton on a draft statement; a text would be ready by 31 July.

CONSIDERATION OF REPORTS, COMMENTS AND INFORMATION SUBMITTED BY STATES PARTIES UNDER ARTICLE 9 OF THE CONVENTION (agenda item 4) (continued)

Decision on the situation in Mexico (continued)

56. The CHAIRMAN said that Mexico had, in fact, submitted its periodic reports at the end of 1994, but the documents had not been ready in all languages in time for the current session. Consequently, it would be necessary to reword the Committee's decision on the situation in Mexico, which had asked Mexico to expedite its periodic reports, and Mr. Banton had proposed that paragraph 2 should be redrafted to read: "The Committee has received the ninth and tenth periodic reports of Mexico and scheduled them for consideration at its forty-seventh session in August 1995. In accordance with article 9, paragraph 1, of the International Convention on the Elimination of All Forms of Racial Discrimination, the Committee requests the Government of Mexico to submit further information on the situation in Chiapas in time for consideration together with the ninth and tenth reports". Paragraph 3 would be deleted.

57. Mr. WOLFRUM, supported by Mr. van BOVEN and Mr. YUTZIS, said that he was against deleting paragraph 3 of the decision; that would entail not merely a redrafting exercise, but an amendment.

58. Mr. SHERIFIS said that the rules of procedure allowed the Committee to reconsider a decision once taken if it so decided. Enough members were present to do so. However, he also was against the deletion of paragraph 3.

59. Mr. AHMADU said that he had no objection to the proposal by Mr. Banton, as long as paragraph 3 was retained.

60. The CHAIRMAN said that, if he heard no objection, he would take it that the Committee decided to adopt the new wording of paragraph 2 of the decision on the situation in Mexico and to retain paragraph 3.

61. It was so decided.

The meeting rose at 7.55 p.m.